

Appl. No. 10,812,659
Docket No. 9574
Amdt. dated March 26, 2007
Reply to Office Action faxed on March 26, 2007
Customer No. 27752

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REMARKS

Status of the Claims

Claims 1-19 are pending in the present application. No additional claims fee is believed to be due.

Claims 16-19 have been withdrawn as a result of an earlier restriction requirement.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The Examiner asserts that the drawings must show every feature of the invention specified in the claims. Therefore, the Examiner asserts that the front face of the lenticular label comprises a multidimensional image... in claim 1, to a viewer at least one visual illusion... in claim 2, the lenticular label further comprises a plurality of lenticules substantially parallel to said longitudinal axis in claim 5, container is arcuate in shape in claim 8, a design on said first surface... in claim 9, and a plurality of interlaced component images must be shown or the features canceled from the claims. Applicants submit that no drawings are necessary with respect to the aforementioned features based on the following.

It has been USPTO practice that drawings are not considered necessary for the understanding of the invention under 35 U.S.C. § 113(first sentence), where the invention resides solely in the use of a particular material in an otherwise old article, apparatus or system recited broadly in the claims. See *MPEP* at § 601.01(f).

Applicants recognize at page 2, paragraph 4, of the specification, that lenticular lenses are well known and commercially available. A lenticular lens can be incorporated into label assemblies that can be applied to objects, such as containers or bottles, using conventional labeling equipment, which allows for manufacturing and assembly efficiency to be maintained. Thus, lenticular technology is already in use on a variety of items, such as promotional buttons, magnets, coasters, collectibles, display posters, signs, menu boards, packaging on boxes, postcards, and business cards, as well as on point-of-purchase materials such as labels and the like. Therefore, each element, cited by the Examiner above, is well known. The invention

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relates to the enhancement of multidimensional images via the application of a particular material to a particular surface of a container and, in one embodiment, the addition of a liquid product. Accordingly, drawings are not required under MPEP § 601.01(f). Therefore, Applicants request that the present objection be removed.

Rejection Under 35 U.S.C. §103(a) Over U.S. Patent No. 5,310,261 to Blue et al.

Claims 1-7 are rejected under 35 USC 103(a) as being obvious over U.S. Patent No. 5,310,261 to Blue et al. ("Blue") in view of the related prior art of lenticular lens technology on pages 2 and 3 of the instant application ("The Related Art"). The Examiner asserts that Blue teaches a container having a temperature sensing strip adhered to the inner surface of the container. The Examiner further asserts that The Related Art teaches a lenticular label having a multidimensional image, and that the label may be applied to a container. Therefore, the Examiner concludes that Applicants' claims are obvious over the combination of Blue and The Related Art. Applicants respectfully traverse the present rejection based on the following comments.

The mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *See MPEP* at 2143.01. There is no suggestion or motivation provided to combine Blue and The Related Art. The Examiner asserts that it would have been obvious to modify the thermometer of Blue by substituting it with the lenticular lens described by The Related Art. However, the thermometer of Blue serves no aesthetic or attractive purpose. Rather, the thermometer is located on the inside surface of its container in order to measure the temperature of liquid samples contained therein. Furthermore, The Related Art, in fact, teaches away from its combination with Blue by teaching that the common characteristic among known applications for lenticular lenses is that they are applied generally with the rear face adhered to an exterior surface of a substrate, with its front face viewable, facing away from the substrate. Therefore, one of ordinary skill would not be motivated to combine Blue and The Related Art. Additionally, evidence of unobvious or unexpected advantageous properties can rebut *prima facie* obviousness. *See MPEP* at 716.02(a). Applicants

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have demonstrated unobvious and unexpected results with respect to the aesthetic enhancement of multidimensional images provided by Applicants' claimed lenticular lens in combination with the transparent container. Specifically, it has been discovered that adhering the front face of the lenticular label in a facing relationship to the second surface of the substantially transparent container, such that the multidimensional image is viewed through at least the first and second surfaces of the substantially transparent container in a lens / container material / air interface, provides improved image quality, reducing blurring and image degradation and enhancing the overall visual and aesthetic effect of the multidimensional image. In contrast, the interaction of the thermometer, container material, and air interface is not taught to have any beneficial property by Blue. Likewise, the applications of lenticular lenses, taught by The Related Art, do not teach or suggest enhanced multidimensional images when combined with secondary materials.

The combination of Blue and The Related Art fails to teach or suggest each and every element of Applicants' claimed invention. Accordingly, claims 1-7 are unobvious over the combination of Blue and The Related Art.

Rejection Under 35 U.S.C. §103(a) Over U.S. Patent No. 5,310,261 to Blue et al in view of U.S. Patent No. 6,272,777 to Swenson.

Claims 8-15 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,310,261 to Blue et al. ("Blue"), in view of the related prior art of lenticular lens technology on pages 2 and 3 of the instant application ("The Related Art"), and further in view of U.S. Patent No. 6,272,777 to Swenson ("Swenson"). In addition to the teachings of Blue and The Related Art, the Examiner asserts that Swenson teaches an, at least, semi-transparent liquid product. The Examiner therefore concludes that it would have been obvious to combine Swenson with Blue or The Related Art. Applicants respectfully traverse the present rejection based on the following comments.

As stated above, the mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *See MPEP* at 2143.01. There is no suggestion or

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motivation provided to combine Blue, The Related Art, and Swenson. As discussed above, the features described in Blue and The Related Art offer no motivation to combine the references. The Examiner asserts that Swenson teaches the addition of a liquid product to a container. However, nothing in Swenson provides a motivation to combine Blue and The Related Art according to the discussion above. Therefore, one of ordinary skill would not be motivated to combine Blue, The Related Art, and Swenson.

Additionally, evidence of unobvious or unexpected advantageous properties can rebut *prima facie* obviousness. See MPEP at 716.02(a). Applicants have demonstrated unobvious and unexpected results with respect to the aesthetic enhancement of multidimensional images provided by Applicants' claimed lenticular lens in combination with the transparent container and a liquid product. Specifically, Applicants have hypothesized that the material of the substantially transparent container and the liquid product which is at least semi-transparent act similarly to corrective lenses in the interface between the multidimensional image of the lenticular lens and the viewer. The result is an improved overall multidimensional image due to the arrangement of the lenticular lens, liquid product, and substantially transparent container.

In contrast, the interaction of a lenticular lens, container material, liquid product and air interface is not taught to have any beneficial property by the combination Blue, The Related Art, and Swenson.

The combination of Blue, The Related Art, and Swenson fails to teach or suggest each and every element of Applicants' claimed invention. Accordingly, claims 8-15 are unobvious over the combination of Blue, The Related Art, and Swenson.

CONCLUSION

In light of the remarks presented herein, it is requested that the Examiner reconsider and withdraw the present rejections. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In

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view of the foregoing, Applicants respectfully request reconsideration of this application and allowance of Claims 1-15.

Respectfully submitted,

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By


Signature

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